

defendants, orders were passed by the Chancellor, altering, to some extent, the terms and the mode in which the property was to be sold.

Now, the allegation in the present bill is, that the bills of sale and proceedings in chancery were designed by the said parties thereto, and in pursuance of a mutual agreement to that effect, as a security merely to the said Fenby for the repayment of any balance that might be found due to him on a settlement to be made of their mutual dealings, and after this allegation it charges usury and makes various other objections to the claims of Fenby, and seeks to open and vacate the enrolment of the decree for the purpose of an account to be taken between the parties.

The bill, therefore, is not, strictly speaking, an original bill, in the nature of a bill of review, impeaching the decree for fraud because it does not allege that it was obtained by fraud, nor could such allegation be made in the face of the complainant's answer to the original bill, verified by affidavit, but the ground taken is, that the decree, which was obtained for one purpose, is now about to be perverted to another purpose, in fraud of the complainant to this bill.

Conceding that the court at this distance of time would interfere to prevent the fraudulent and oppressive use of a decree to purposes not contemplated by the parties and in conflict with their agreement, (and it certainly would require a very strong and clear case to justify such interference after an interval of seven years,) the question is, whether the complainant has by evidence made out any such case as that charged in his bill?

The substance of the allegation is, that the decree was not given to secure a specific and ascertained sum of money, but merely by way of securing the repayment of any balance that might be found due Fenby on a settlement of accounts. And this allegation is denied by the answer, which says, that at the time stated in this bill he filed his bill in this court for a foreclosure of said bills of sale truly stating the amount then due him to be \$7580. That there was no fraud, deceit or surprise practiced in obtaining the decree, but that on the contrary, it was for money, all of which was justly due him, and was made